SCOTTISH STATUTORY INSTRUMENTS

2011 No. 171

ANIMALS

ANIMAL HEALTH

The Animal By-Products (Enforcement) (Scotland) Regulations 2011

Made - - - -	*1st March 2011*
Laid before the Scottish Parliament	*3rd March 2011*
Coming into force - -	*4th March 2011*

CONTENTS

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972(**a**) and all other powers enabling them to do so.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Scottish Ministers that it is necessary for the references to Commission Regulation (EU) No 142/2011 implementing Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive(**b**) to be construed as references to that instrument as amended from time to time.

PART 1

Introduction

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Animal By-Products (Enforcement) (Scotland) Regulations 2011 and come into force on 4th March 2011.

(2) These Regulations extend to Scotland only.

Interpretation

2.—(1) In these Regulations—

"animal by-product requirement" has the meaning given in regulation 17;

"authorised person" has the meaning given in regulation 22;

"competent authority" has the meaning given in regulation 3;

"enforcement authority" has the meaning given in regulation 21(5);

"EU Control Regulation" means Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation)(**c**);

"EU Implementing Regulation" means Commission Regulation (EU) No 142/2011 implementing Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive, as amended from time to time;

"premises" includes—

(a) any land, building (including any domestic premises), shed or pen;

(**a**) 1972 c.68 ("the 1972 Act"). Section 2(2) was amended by the Scotland Act 1998 (c.46) ("the 1998 Act"), Schedule 8, paragraph 15(3) (which was amended by the Legislative and Regulatory Reform Act 2006 (c.51) ("the 2006 Act"), section 27(4)). Section 2(2) was also amended by the 2006 Act, section 27(1)(a) and by the European Union (Amendment) Act 2008 (c.7) ("the 2008 Act"), Schedule, Part 1. Paragraph 1A of Schedule 2 was inserted by the 2006 Act, section 28 and was amended by the 2008 Act, Schedule, Part 1. The functions conferred upon the Minister of the Crown under the 1972 Act, section 2(2), insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of the 1998 Act, section 53.

(**b**) O.J. L 54, 26.02.2011, p.1.

(**c**) O.J. L 300, 14.11.2009, p.1, amended by Directive 2010/63/EU (O.J. L 276, 20.10.2010, p.33).

(b) any receptacle or container;

(c) any ship; or

(d) vehicle of any description; and

"ship" includes a hovercraft, submersible craft and any other floating craft but not a vessel which—

(a) permanently rests on or is permanently attached to the seabed; or

(b) is an installation within section 16 of the Energy Act 2008(**a**).

(2) Expressions used in these Regulations that are also used in the EU Control Regulation or the EU Implementing Regulation have the same meaning in these Regulations as they have in the EU Control Regulation and in the EU Implementing Regulation, as the context may require.

(3) Any reference in these Regulations to anything done in writing or produced in written form includes a reference to an electronic communication, as defined in the Electronic Communications Act 2000(**b**), which has been recorded and is consequently capable of being reproduced.

PART 2

The competent authority and miscellaneous provisions

The competent authority

3. The Scottish Ministers are the competent authority for the purposes of—

(a) the EU Control Regulation; and

(b) the EU Implementing Regulation.

Access in relation to the prohibitions in Article 11(1)(a), (b) or (d) of the EU Control Regulation

4. In relation to a prohibition on feeding in Article 11(1)(a), (b) or (d) of the EU Control Regulation, the requirements of regulations 5 and 6 apply.

5.—(1) Animal by-products, including catering waste, must not be brought on to any premises where farmed animals are kept.

(2) Paragraph (1) does not apply—

(a) where, in relation to bringing on to premises, the occupier of the premises and the person having control of the animal by-products ensure that bringing on to the premises will not allow farmed animals to have access to such products; and

(b) to derived products, except for the following derived products—

(i) products derived from catering waste; and

(ii) meat and bone meal derived from Category 2 material and processed animal proteins intended to be used as or in organic fertilisers and soil improvers that do not comply with the requirements of Article 32(1)(d) of the EU Control Regulation.

6. A carcase or part of a carcase of any farmed animal that has not been slaughtered for human consumption must be held, pending consignment or disposal, in accordance with the EU Control Regulation as read with the EU Implementing Regulation, in such manner as to ensure that any animal or bird will not have access to it.

(**a**) 2008 c.32.

(**b**) 2000 c.7, amended by the Communications Act 2003 (c.21), sections 406 and 411(2) and (3) and Schedule 17, paragraph 158.

Use of organic fertilisers and soil improvers and extended waiting period for pigs in relation to the prohibition in Article 11(1)(c) of the EU Control Regulation

7.—(1) In accordance with Article 32(1) of the EU Control Regulation, the application of organic fertilisers or soil improvers to land is prohibited, where, during the period of 60 days from the application of such products, it is intended that pigs will—

(a) have access for grazing to such land; or

(b) be fed cut herbage from such land.

(2) Where organic fertilisers or soil improvers have been applied to land, in addition to the minimum waiting period that applies to farmed animals, pigs are prohibited during an additional waiting period, resulting in a total period of 60 days from such application, from—

(a) having access to such land; or

(b) being fed cut herbage from such land.

(3) Paragraphs (1) and (2) do not apply to the following organic fertilisers or soil improvers:—

(a) manure;

(b) milk;

(c) milk based products;

(d) milk derived products;

(e) colostrum;

(f) colostrum products; and

(g) digestive tract content.

(4) In this regulation—

(a) "the minimum waiting period" is the period of 21 days commencing from the date of application of organic fertilisers or soil improvers to land as provided in Article 11(1)(c) of the EU Control Regulation, as read with Article 5(2) of, and Chapter II of Annex II to, the EU Implementing Regulation; and

(b) "the additional waiting period" is the period of 39 days commencing on the expiration of the minimum waiting period.

Collection centres for feeding in relation to Article 18(1) of the EU Control Regulation

8. In relation to Article 18(1) of the EU Control Regulation and in accordance with Article 13 of the EU Implementing Regulation, as read with point 3 of Section 1 of Chapter II of Annex VI to that Regulation, a processing plant for Category 2 material which is approved for the purpose of being a collection centre for Category 2 material is authorised as a collection centre.

Remote areas referred to in Article 19(1)(b) of the EU Control Regulation

9. For the purposes of applying Article 19(1)(b) of the EU Control Regulation, the following areas are categorised as remote areas:—

(a) the area of the Argyll and Bute Council, excluding the Parishes of Arrochar (339), Cardross (347), Dunoon and Kilmun (140), Inverchaolain (141), Kilfinan (142), Kilmodan (143), Kingarth (276), Lochgoilhead and Kilmorich (144), Luss (349), North Bute (other than the island of Inchmarnock) (277), Rhu (340), Rosneath (341), Rothesay (278), Strachur (145) and Strathlachlan (146);

(b) the area of Comhairle nan Eilean Siar;

(c) the area of the Highland Council, excluding the Parishes of Abernethy and Kincardine (438), Alvie (439), Ardclach (605), Ardersier (445), Auldearn (606), Boleskine and Abertarff (433), Cawdor (607), Cromdale, Inverallan and Advie (586), Croy (446), Croy and Dalcross (608), Daviot and Dunlichity (447), Dores (448), Duthil and Rothiemurchus

(440), Inverness and Bona (449), Kingussie and Insh (441), Kirkhill (436), Moy and Dalarossie (450), Nairn (609) and Petty (451);

(d) in the area of North Ayrshire Council, the parishes of Cumbrae (279), Kilbride (274) and Kilmory (275);

(e) the area of the Orkney Islands Council;

(f) in the area of the Perth and Kinross Council, the Parish of Fortingall (679); and

(g) the area of the Shetland Islands Council.

Placing on the market in relation to Article 36 of the EU Control Regulation

10. In relation to Article 36 of the EU Control Regulation and in accordance with Article 24(4) of the EU Implementing Regulation, as read with point B of Chapter VII to Annex XIII to that Regulation, the placing of untreated wool and hair from farms or from establishments or plants is authorised without restrictions except where they present a risk of any disease communicable through those products to humans or animals.

PART 3

Registration and approval

Procedure for registration of plants and establishments

11. A notification must be made in writing to the competent authority, where it is made in relation to the following Article of the EU Control Regulation:—

(a) with a view to registration in accordance with Article 23(1); or

(b) to inform the competent authority of changes in accordance with Article 23(2).

Notifications of competent authority in respect of registration

12. The competent authority must give notice in writing to—

(a) the operator who has notified in accordance with regulation 11 of—

(i) the registration of such an operator; or

(ii) the decision not to register; and

(b) a registered operator of—

(i) a prohibition made under Article 46(2) of the EU Control Regulation (prohibition on operations);

(ii) a requirement to comply with Article 23(1)(b) or (2) of the EU Control Regulation (information on activities and up to date information); or

(iii) the amendment of the registration or the ending of the registration where an operator has notified the competent authority of the closure of an establishment in accordance with Article 23(2) of the EU Control Regulation (up-to-date information).

Procedure for application for approval

13. Operators to whom Article 24(1) of the EU Control Regulation applies, must apply in writing to the competent authority to be—

(a) approved; or

(b) where Article 33 of the EU Implementing Regulation applies, re-approved.

Notification in respect of decisions on approval

14. The competent authority must give notice in writing to—

(a) the applicant for approval of the—

(i) grant of approval in accordance with Articles 24 and 44 of the EU Control Regulation;

(ii) grant of conditional approval in accordance with Articles 24 and 44 of the EU Control Regulation, or the extension of such approval in accordance with that Article; or

(iii) refusal to grant approval in accordance with the initial application or extension;

(b) where conditional approval has been granted in accordance with Articles 24 and 44 of the EU Control Regulation, the operator of the plant or establishment subject to such approval of the—

(i) grant of full approval;

(ii) extension of such approval;

(iii) imposition of conditions in accordance with Article 46(1)(c) of the EU Control Regulation;

(iv) suspension of such approval in accordance with Article 46(1)(a) of the EU Control Regulation;

(v) withdrawal of such approval in accordance with Article 46(1)(b) of the EU Control Regulation;

(vi) refusal to extend or grant full approval; or

(vii) prohibition in accordance with Article 46(2) of the EU Control Regulation; or

(c) the operator of an approved plant or establishment of the—

(i) imposition of conditions in accordance with Article 46(1)(c) of the EU Control Regulation;

(ii) suspension of such approval in accordance with Article 46(1)(a) of the EU Control Regulation;

(iii) withdrawal of such approval in accordance with Article 46(1)(b) of the EU Control Regulation; or

(iv) prohibition in accordance with Article 46(2) of the EU Control Regulation.

Reasons for decisions

15.—(1) Where a decision is made by the competent authority as provided in paragraph (2), the competent authority must give reasons in writing for that decision, with the decision.

(2) The types of decision are those made—

(a) in respect of registration, under regulation 12(a)(ii) (not to register) or regulation 12(b) (requirements, amendments or ending of registration);

(b) in respect of an application of approval, as mentioned in regulation 14(a)(ii) (conditional approval) or regulation 14(a)(iii) (refusal);

(c) in respect of conditional approval, as mentioned in regulation 14(b)(v) (withdrawal) or regulation 14(b)(vii) (refusal);

(d) in respect of the suspension or withdrawal of full approval, as mentioned in regulation 14(c)(ii) or regulation 14(c)(iv);

(e) in respect of the imposition of conditions, as mentioned in regulation 14(b)(iii) or regulation 14(c)(i);

(f) in respect of a prohibition as mentioned in regulation 14(b)(vi) or regulation 14(c)(iii).

Appeals procedure

16.—(1) Where the competent authority has notified a decision referred to in regulation 15(2), a person may make written representations to a person appointed for the purpose by the Scottish Ministers within 21 days of the notification of that decision.

(2) The competent authority may also make written representations to the appointed person concerning the decision.

(3) The appointed person must then report in writing to the Scottish Ministers, who will then make their final determination.

(4) The Scottish Ministers must give to the appellant written notification of the Scottish Ministers' final determination and the reasons for it.

PART 4

Offences and penalties

Offence in respect of EU Control Regulation

17.—(1) Any person—

(a) to whom an animal by-product requirement applies; and

(b) who contravenes or fails to comply with such a requirement,

commits an offence.

(2) In these Regulations "animal by-product requirement" means a requirement in any provision of the EU Control Regulation or the EU Implementing Regulation specified in column 2 of Schedule 1 to these Regulations as read with, where applicable, any provision of the EU Control Regulation, the EU Implementing Regulation or these Regulations specified in column 3 of that Schedule.

Offence of obstruction

18. A person is guilty of an offence if that person, in relation to an authorised person acting under these Regulations—

(a) intentionally obstructs the authorised person;

(b) without reasonable cause, fails to give to the authorised person any information or assistance or to provide any facilities that such person may reasonably require;

(c) knowingly or recklessly gives false or misleading information to the authorised person; or

(d) fails to produce a record or document when required to do so by the authorised person.

Offences by bodies corporate, Scottish partnerships and unincorporated associations

19.—(1) Where—

(a) an offence under these Regulations has been committed by a body corporate or a Scottish partnership or other unincorporated association; and

(b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of—

(i) a relevant individual; or

(ii) an individual purporting to act in the capacity of a relevant individual,

the individual as well as the body corporate, Scottish partnership or unincorporated association, is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) In paragraph (1), "relevant individual" means—

(a) in relation to a body corporate—

(i) a director, manager, secretary or other similar officer of the body;

(ii) where the affairs of the body are managed by its members, a member;

(b) in relation to a Scottish partnership, a partner; and

(c) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.

Penalties

20. A person guilty of an offence under these Regulations is liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding 12 months or both; or

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years or both.

PART 5

Enforcement

Enforcement authority

21.—(1) These Regulations are enforced by—

(a) subject to paragraph (2), a local authority; or

(b) in relation to a food hygiene establishment, the Scottish Ministers.

(2) The Scottish Ministers may, in relation to particular cases or cases of particular descriptions, as they may direct, enforce these Regulations in place of the local authority.

(3) In paragraph (1)(a) "local authority" means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(**a**).

(4) In paragraph (1)(b), "food hygiene establishment" means an establishment referred to in regulation 5(2)(a) of the Food Hygiene (Scotland) Regulations 2006(**b**) in respect of which the Food Standards Agency has enforcement functions under those Regulations.

(5) A body exercising functions by virtue of paragraph (1) or (2) is referred to in these Regulations as an enforcement authority.

Authorised person

22.—(1) An enforcement authority may authorise in writing such persons as the authority considers appropriate to act for the purpose of enforcing these Regulations.

(2) A person authorised under paragraph (1) is referred to in these Regulations as an authorised person.

Powers of authorised person

23. An authorised person may, on production, if so required, of his or her duly authenticated authorisation, exercise any of the powers specified in regulations 24 and 26.

(**a**) 1994 c.39, amended by the Environment Act 1995 (c.25), section 120(1) and Schedule 22, paragraph 232(1).
(**b**) S.S.I. 2006/3.

Powers of entry and additional powers

24.—(1) For the purpose of ensuring that the EU Control Regulation, the EU Implementing Regulation and these Regulations are complied with, an authorised person may enter any premises (excluding any premises used only as a private dwelling house) at any reasonable hour.

(2) The authorised person may in relation to the power under paragraph (1)—

(a) be accompanied by such other persons as the authorised person considers necessary (including, where there is reasonable cause to anticipate any serious obstruction in the execution of the authorised person's duty, a constable);

(b) take any equipment or materials required for any purpose for which the power of entry is being exercised;

(c) carry out any examination and investigation as may in the circumstances be necessary;

(d) as regards any premises which the authorised person has power to enter, direct that those premises, or part of them, are left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purpose of any examination or investigation under sub-paragraph (c);

(e) take such measurements and photographs and make such recordings as are considered necessary for the purpose of any examination or investigation under sub-paragraph (c);

(f) in the case of any articles or substances found in or on any premises which the authorised person has power to enter—

(i) take samples;

(ii) test any sample or subject any sample to any process, where it appears that it has or is likely to cause harm to human health or to the health of animals or plants;

(iii) take possession of any sample and retain it for so long as is necessary for any of the following purposes:—

(aa) to examine it and to exercise the power within paragraph (ii);

(bb) to ensure that it is not tampered with before examination of it is completed; and

(cc) to ensure that it is available for use as evidence in any proceedings for an offence under these Regulations;

(g) require the production of or, where the information is recorded in computerised form, the furnishing of extracts from, any records which it is necessary to see for the purposes of any examination or investigation under sub-paragraph (c) and to inspect and take copies of, or of any entry in, the records;

(h) require any person to afford such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as are necessary to enable the authorised person to exercise any of the powers conferred on the authorised person by this regulation; or

(i) mark any animal or animal by-product as the authorised person considers necessary.

(3) Where an authorised person proposes to exercise the power in paragraph (2)(f)(ii) in the case of any article or substance found in or on any premises, the authorised person must—

(a) if so requested by a person who at the time is present and has responsibilities in relation to those premises, cause anything which is to be done by virtue of that power, to be done in that person's presence; and

(b) consult such persons as appear to the authorised person appropriate for the purpose of ascertaining what dangers, if any, there may be in doing anything which is proposed under that power.

(4) Where an authorised person in respect of the power in paragraph (2)(f)(iii)—

(a) proposes to exercise that power, the authorised person must before taking possession, if it is practicable to do so, give to a responsible person at the premises a portion of the sample, marked in a manner sufficient to identify it; or

(b) exercises that power, the authorised person must leave a notice giving particulars of the article or substance sufficient to identify it and stating that possession has been taken under that power, such notice to be left either—

(i) with a responsible person; or

(ii) if that is impracticable, fixed in a conspicuous place at those premises.

(5) Nothing in this regulation compels the production by any person of information in respect of which a claim to confidentiality of communications could be maintained in legal proceedings.

Warrant

25.—(1) If a sheriff or justice of the peace, on sworn information in writing, is satisfied that there is reasonable ground for entry into any premises by an authorised person under regulation 24 and either—

(a) that entry has been refused, or a refusal is reasonably expected, and the authorised person has given notice of his or her intention to apply for an entry warrant to the occupier; or

(b) a request for entry, or the giving of such a notice, would defeat the object of entry, or entry is urgently required, or the premises are unoccupied, or the occupier is temporarily absent, and it would defeat the object of entry to await the occupier's return,

the sheriff or justice may by signed warrant, valid for one month, authorise the authorised person to enter the premises, if need be by reasonable force.

(2) An authorised person leaving any unoccupied premises which that person has entered by virtue of a warrant must leave them as effectively secured against unauthorised entry as they were found.

Notices served by an authorised person

26.—(1) An authorised person may serve a notice in accordance with paragraph (2) where that person—

(a) considers that there is a contravention of, or failure to comply with, an animal by-product requirement; or

(b) reasonably suspects that, as a result of such contravention or failure to comply, premises constitute a risk to human or animal health.

(2) A notice may be served on the occupier of any premises or the person in charge of the premises—

(a) requiring the disposal and, where applicable, storage pending such disposal of animal by-products and derived products;

(b) requiring the cleansing and disinfection of any premises and where applicable, the method for such cleansing and disinfection; or

(c) prohibiting animal by-products and derived products being—

(i) brought on to any premises;

(ii) brought on to any premises unless in accordance with conditions specified in the notice; or

(iii) moved on to or into any premises until the satisfactory completion of the cleansing and disinfection in accordance with a notice as provided in sub-paragraph (b).

(3) A notice served under paragraph (2) must be complied with at the expense of the person on whom the notice is served, and if it is not complied with, an authorised person may arrange for it to be complied with at the expense of that person.

(4) Paragraph (1) does not apply where Article 46(1) of the EU Control Regulation applies.

(5) Failure to comply with notices served under paragraph (2) is an offence.

Power to share information for enforcement purposes

27.—(1) Information sent to, or acquired, in compliance or purported compliance with the obligations of the EU Control Regulation and the EU Implementing Regulation or as a result of enforcing these Regulations may be shared, in accordance with paragraph (2), where it has been so received by—

(a) the competent authority;

(b) an enforcement authority; or

(c) an authorised person.

(2) Where a body within paragraph (1) has received information in accordance with that paragraph, then such a body may share such information with any other—

(a) competent authority;

(b) enforcement authority; or

(c) authorised person,

appointed within the United Kingdom for the purposes of implementing or enforcing the EU Control Regulation and the EU Implementing Regulation.

(3) Information received in accordance with paragraph (2) must only be used for the purposes of enforcing these Regulations.

(4) For the purposes of this regulation, "an enforcement authority" includes the Food Standards Agency.

PART 6

Consequential amendments

Consequential amendments

28. The consequential amendments specified in Schedule 2 to these Regulations have effect.

PART 7

Revocations and saving and transitional provisions

Revocations

29. The instruments specified in column 1 of Schedule 3 to these Regulations are revoked to the extent specified in column 3 of that Schedule.

Saving provisions

30. Notwithstanding their revocation, the Animal By-Products (Scotland) Regulations 2003(**a**) continue to have effect in relation to any amendments made by regulation 51(2) of, and paragraph 1 of Part 2 of Schedule 5 to, those Regulations.

Small quantities transitional provision

31.—(1) The collection, transport and disposal of Category 3 material in Article 10(f) of the EU Control Regulation, by way of derogation from Article 14 of the EU Control Regulation, is

(**a**) S.S.I. 2003/411, amended by S.S.I. 2006/3 and 530, 2007/1 and 2009/7.

authorised under Article 36(3) of the EU Implementing Regulation for the period ending on 31st December 2012, where the requirements of paragraph (2) are satisfied.

(2) The requirements are—

(a) the material satisfies Article 36(3) of, and paragraphs (a) to (c) of Chapter IV of Annex VI to, the EU Implementing Regulation; and

(b) the means of disposal for such material, in addition to the means in Article 14 of the EU Control Regulation, is disposal—

(i) in an authorised landfill without prior processing; or

(ii) where Article 21 of the EU Control Regulation is satisfied, to a biogas or composting plant for transformation in accordance with an authorisation under point 2 of section 2 of Chapter III of Annex V to the EU Implementing Regulation.

RICHARD LOCHHEAD
A member of the Scottish Executive

St Andrew's House,
Edinburgh
1st March 2011

SCHEDULE 1

Regulation 17

Animal by-product requirements

Column 1 *Subject matter of requirement*	*Column 2* *Provision(s) containing the basic requirement*	*Column 3* *Provisions to be read with the provision(s) mentioned in column 2*
1. General Obligation	Article 4(1) or (2) of the EU Control Regulation	Article 5(1) and (2) of the EU Control Regulation as read with Article 3 of the EU Implementing Regulation (end point in the manufacturing chain for certain derived products)
2. Compliance with general animal health restrictions	Article 6(1) of the EU Control Regulation	Article 6(1) of the EU Control Regulation and Article 4 of the EU Implementing Regulation (serious transmissible diseases)
3. Compliance with restrictions on use for feeding purposes	Article 11 of the EU Control Regulation	Regulations 4 to 6 (access of farmed animals to animal by-products) and 7(2) of these Regulations (subject to regulation 7(3)) (additional waiting period for pigs)
		Article 11(2) of the EU Control Regulation as read with Article 5(1) of the EU Implementing Regulation (restrictions on use in respect of Article 11(1)(a) of the EU Control Regulation); and Article 5(2) of that Regulation (restrictions on use in respect of Article 11(1)(c) of the EU Control Regulation)
4. Disposal and use of Category 1 material	Article 12 of the EU Control Regulation as read with the following provisions of Article 16 (derogations) of that Regulation:—	Article 15(1)(b) of the EU Control Regulation as read with Article 8(1) of the EU Implementing Regulation (requirements for processing plants and other establishments) and Article 9(b) of that Regulation (standard processing methods)
	Article 16(b) (disposal in accordance with Article 17); Article 16(c) (disposal in accordance with Article 18(2)); Article 16(d) (disposal in accordance with Article 19); Article 16(e) (disposal in accordance with Article 20); and Article 7 of the EU	Article 15(1)(d) of the EU Control Regulation as read with Article 6(3) to (5) of the EU Implementing Regulation (disposal by incineration in respect of Article 12(a) or (b) of the EU Control Regulation) Article 17(2) of the EU Control Regulation as read with Article 11(2) of the EU Implementing Regulation (special rules on research and diagnostic samples) and Article 12(2) (special rules on trade samples and display items) of that Regulation

Column 1 *Subject matter of requirement*	*Column 2* *Provision(s) containing the basic requirement*	*Column 3* *Provisions to be read with the provision(s) mentioned in column 2*
	Implementing Regulation	Article 19(4) of the EU Control Regulation as read with Article 15 of the EU Implementing Regulation (collection, transport and disposal) Article 20(11) of the EU Control Regulation as read with Article 9(c) of the EU Implementing Regulation (alternative processing methods)
5. Disposal and use of Category 2 material	Article 13 of the EU Control Regulation, as read with— Article 15(2)(b) of the EU Control Regulation and the following provisions of Article 16 (derogations) of that Regulation:— Article 16(b) (disposal in accordance with Article 17); Article 16(c) (disposal in accordance with Article 18(1)); Article 16(d) (disposal in accordance with Article 19); Article 16(e) (disposal in accordance with Article 20); Article 16(f) (disposal and use for the preparation and application of bio-dynamic preparations); and Article 16(h) (disposal and use of as a result of surgery on a farm)	Article 15(1)(b) of the EU Control Regulation as read with Article 8(1) of the EU Implementing Regulation (requirements for processing plants and other establishments) and Article 9(b) of that Regulation (standard processing methods); Article 15(1)(c) of the EU Control Regulation as read with Article 10(1) of the EU Implementing Regulation (requirements regarding transformation into biogas and composting in respect of Article 13(e) or (f) of the EU Control Regulation) Article 15(1)(d) of the EU Control Regulation as read with Article 6(3) to (5) of the EU Implementing Regulation (disposal by incineration in respect of Article 13(a) or (b) of the EU Control Regulation) Article 17(2) of the EU Control Regulation as read with Article 11(2) of the EU Implementing Regulation (special rules on research and diagnostic samples) and Article 12(2) (special rules on trade samples and display items) of that Regulation Article 18(3) of the EU Control Regulation as read with Article 13(1) of the EU Implementing Regulation (special feeding rules) as read with regulation 8 of these Regulations (collection centres for feeding in relation to Article 18(1) of the EU Control Regulation) Article 19(4) of the EU Control Regulation as read with Article 15 of the EU Implementing Regulation (collection, transport and disposal) Article 20(11) of the EU Control Regulation as read with Article 9(c) of the EU Implementing Regulation (alternative processing methods)

Column 1 *Subject matter of requirement*	*Column 2* *Provision(s) containing the basic requirement*	*Column 3* *Provisions to be read with the provision(s) mentioned in column 2*
6. Disposal and use of Category 3 material	Article 14 of the EU Control Regulation, as read with the following provisions of Article 16 (derogations) of that Regulation—	Article 15(1)(b) of the EU Control Regulation as read with Article 8(1) of the EU Implementing Regulation (requirements for processing plants and other establishments) and Article 9(b) of that Regulation (standard processing methods)
	Article 16(b) (disposal and use in accordance with Article 17); Article 16(c) (disposal and use in accordance with Article 18(1));	Article 15(1)(c) of the EU Control Regulation as read with Article 10(1) of the EU Implementing Regulation (requirements regarding transformation into biogas and composting in respect of Article 14(f) or (g) of the EU Control Regulation)
	Article 16(d), (disposal and use in accordance with Article 19); Article 16(e) (disposal and use in accordance with Article 20); Article 16(f) (disposal and use for the preparation and application of bio-dynamic preparations); and Article 16(h) (disposal and use of as a result of surgery on a farm)	Article 15(1)(d) of the EU Control Regulation as read with Article 6(3) to (5) of the EU Implementing Regulation (disposal by incineration in respect of Article 14(a) or (b) of the EU Control Regulation)
		Article 17(2) of the EU Control Regulation as read with Article 11(2) of the EU Implementing Regulation (special rules on research and diagnostic samples) and Article 12(2) (special rules on trade samples and display items) of that Regulation
		Article 18(3) of the EU Control Regulation as read with Article 13(2) of the EU Implementing Regulation (special feeding rules)
	Article 7 of the EU Implementing Regulation	Article 19(4) of the EU Control Regulation as read with Article 15 of the EU Implementing Regulation (collection, transport and disposal)
		Article 20(11) of the EU Control Regulation as read with Article 9(c) of the EU Implementing Regulation (alternative processing methods)
		Article 36(3) of the EU Implementing Regulation (transitional measures) as read with regulation 31 of these Regulations (small quantities transitional provision)
7. Collection and identification as regards category and transport	Article 21(1) to (4) of the EU Control Regulation	Article 21(5) and (6) of the EU Control Regulation as read with Article 17 of the EU Implementing Regulation (requirements of collection, transport, identification and traceability)

Column 1 *Subject matter of requirement*	*Column 2* *Provision(s) containing the basic requirement*	*Column 3* *Provisions to be read with the provision(s) mentioned in column 2*
8. Traceability	Article 22(1) and (2) of the EU Control Regulation	Article 22(3) of the EU Control Regulation; Article 17 of the EU Implementing Regulation (requirements of collection, transport, identification and traceability)
9. Registration of operators, establishments and plants	Article 23(1) of the EU Control Regulation (subject to Article 23(4)); and Article 23(2) of that Regulation as read with Article 55 of that Regulation	Regulation 11 of these Regulations (procedure for registration) Article 23(3) and Article 27 of the EU Control Regulation as read with Article 20(1) and (2) (subject to paragraph (3)) of the EU Implementing Regulation (requirements of certain registered establishments and plants) Article 47(2) of the EU Control Regulation as read with Article 32(7) of the EU Implementing Regulation (format requirements for lists of registered operators)
10. Approval of establishments and plants	Article 24 of the EU Control Regulation as read with Article 44(3) of the EU Control Regulation as read with Article 55 of that Regulation	Regulation 13 of these Regulations (procedure for approval) Article 27 (implementing measures) of the EU Control Regulation as read with Article 19 of the EU Implementing Regulation (requirements concerning certain approved establishments and plants) and Article 33 of that Regulation (re-approval of plants and establishments after the grant of a temporary approval) Article 47(2) of the EU Control Regulation as read with Article 32(7) of the EU Implementing Regulation (format requirements for lists of registered operators)
11. General hygiene requirements	Article 25 of the EU Control Regulation	Article 27 of the EU Control Regulation as read with Article 9(a) of the EU Implementing Regulation (hygiene and processing requirements) and Article 19 of that Regulation (requirements in relation to certain approved plants in Article 24 of the EU Control Regulation) and Article 20 of that Regulation (requirements in relation to certain registered plants)
12. Handling of animal by-products within food businesses	Article 26 of the EU Control Regulation	

Column 1 *Subject matter of requirement*	*Column 2* *Provision(s) containing the basic requirement*	*Column 3* *Provisions to be read with the provision(s) mentioned in column 2*
13. Own checks	Article 28 of the EU Control Regulation	
14. Hazard analysis and critical control points	Article 29(1) to (3) of the EU Control Regulation	
15. Placing on the market animal by-products and derived products for feeding to farmed animals excluding fur animals	Article 31(1) of the EU Control Regulation	Article 31(2) of the EU Control Regulation as read with Article 21 of the EU Implementing Regulation (placing on the market for feeding to farmed animals) and Article 24(2) (petfood and other derived products) of that Regulation
16. Placing on the market and use of organic fertilisers and soil improvers	Article 32(1) and (2) of the EU Control Regulation	Regulation 7(1) of these Regulations (subject to regulation 7(3)) (application of fertilisers) Article 32(3) of the EU Control Regulation as read with Article 22(1) to (3) of the EU Implementing Regulation (placing on the market of fertilisers) Article 36(1) of the EU Implementing Regulation (transitional measures)
17. Collection and movement for manufacture of derived products	Article 34 of the EU Control Regulation (manufacture) except insofar as that relates to import	Article 33 of the EU Control Regulation and Article 23 of the EU Implementing Regulation (intermediate products)
18. Compliance with prohibition on use for manufacture for products not within Article 33 or 36 of the EU Control Regulation	Article 24(1) of the EU Implementing Regulation	Article 33 of the EU Control Regulation (placing on the market of certain derived products regulated by Community legislation) Article 36 of that Regulation (placing on the market of other derived products)
19. Placing on the market of pet food	Article 35 of the EU Control Regulation	Article 5(2) of the EU Control Regulation as read with Article 3 of the EU Implementing Regulation (end point in the manufacturing chain) Article 40 of the EU Control Regulation as read with Article 24(3) of the EU Implementing Regulation (petfood and other derived products)

Column 1 *Subject matter of requirement*	*Column 2* *Provision(s) containing the basic requirement*	*Column 3* *Provisions to be read with the provision(s) mentioned in column 2*
20. Placing on the market of other derived products	Article 36 of the EU Control Regulation	Regulation 10 of these Regulations (placing on the market) Article 5(2) of the EU Control Regulation as read with Article 3 of the EU Implementing Regulation (end point in the manufacturing chain) Article 40 of the EU Control Regulation as read with Article 24(1), (2) and (4) of the EU Implementing Regulation (petfood and other derived products)
21. Safe sourcing	Article 37(2) of the EU Control Regulation	
22. Export	Article 43 of the EU Control Regulation	
23. Controls for dispatch to other Member States	Article 48(1), (4) and (5), as read with Article 48(6), of the EU Control Regulation	Article 48(7) of the EU Control Regulation as read with Article 11(3) of the EU Implementing Regulation (special rules on research and diagnostic samples), Article 12(3) of that Regulation (special rules on trade samples and display items) and Article 31 of that Regulation (models of health certificates and declarations for importation and transit)

SCHEDULE 2

Regulation 28

Consequential amendments

The Animal By-Products (Identification) Regulations 1995

1. The Animal By-Products (Identification) Regulations 1995(**a**) are amended as follows.

2. In regulation 2(1) (interpretation)—

(a) omit the definition of "the 2003 Regulations";

(b) in the definition of "approved incineration plant", for "regulation 14 of the 2003 Regulations" substitute "Articles 24 and 44 of the Community Regulation";

(c) in the definition of "approved rendering plant", for "regulation 14 of the 2003 Regulations" substitute "Articles 24 and 44 of the Community Regulation"; and

(d) for the definition of "the Community Regulation" substitute ""the Community Regulation" means Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation)(**b**);".

3. In regulation 4 (scope), omit "the 2003 Regulations or".

4. In regulation 5(2) (exemptions)—

(a) in sub-paragraph (c), for "the 2003 Regulations" substitute "Articles 13, 16, 17, 18 and 19 of the Community Regulation"; and

(b) in sub-paragraph (d), for "the 2003 Regulations" substitute "Articles 12, 13, 14 and 17 of the Community Regulation".

5. In regulation 9(3) (storage and packaging of animal by-products)—

(a) in sub-paragraph (d), for "2.1(c)", substitute "9"; and

(b) in sub-paragraph (e), for "2.1(d)", substitute "10".

The Products of Animal Origin (Import and Export) Regulations 1996

6. The Products of Animal Origin (Import and Export) Regulations 1996(**c**) are amended as follows.

7. In regulation 1(2) (interpretation)—

(a) omit the definition of "Directive 90/667";

(b) in the definition of "product of animal origin", for "Directive 90/667" substitute "Regulation (EC) No 1069/2009 and Regulation (EU) No 142/2011"; and

(c) after the definition of "Regulation 1274/91" insert—

""Regulation (EC) No 1069/2009" means Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulations (EC) No 1774/2002 (Animal by-products Regulation);

"Regulation (EU) No 142/2011" means Commission Regulation (EU) No 142/2011 implementing Regulation (EU) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products

(**a**) S.I. 1995/614, relevantly amended by S.S.I. 2003/53 and 411 and 2006/3.
(**b**) O.J. L 300, 14.11.2009, p.1, amended by Directive 2010/63/EU (O.J. L 276, 20.10.2010, p.33).
(**c**) S.I. 1996/3124, relevantly amended by S.I. 1996/3000 and S.S.I. 2003/568.

not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive;".

8. In regulation 10 (exports to other member states)—

(a) after each reference to "Directive 92/118" insert "or Regulation (EC) No 1069/2009 or Regulation (EU) No 142/2011"; and

(b) in paragraph (1)(a)(i), after "provisions" insert "of any".

9. In regulation 11(1) (registration of certain establishments which produce, process or store products of animal origin)—

(a) after each reference to "Directive 92/118" insert "or Regulation (EC) No 1069/2009 or Regulation (EU) No 142/2011"; and

(b) for "15 of Schedule 3, under Directive 90/667" substitute "16 of Schedule 3".

10. In regulation 12(1) (notification of certain establishments which supply or store products of animal origin)—

(a) after each reference to "Directive 92/118" insert "or Regulation (EC) No 1069/2009 or Regulation (EU) No 142/2011"; and

(b) in sub-paragraph (a), for "15 of Schedule 3, under Directive 90/667" substitute "16 of Schedule 3".

11. In Schedule 1 (amendments to directives), in paragraph 3, omit "Council Directive 90/667/EEC (OJ No. L 363, 27.12.90, p.51);".

12. In Schedule 3 (community measures relevant to intra-community trade)—

(a) at the end of the heading to paragraph 12, insert "and also not subject to Regulation (EC) No 1069/2009 and Regulation (EU) No 142/2011"; and

(b) after paragraph 15 (wild game), insert—

"Animal by-products

16. Regulation (EC) No 1069/2009 and Regulation (EU) No 142/2011.".

The Pollution Prevention and Control (Scotland) Regulations 2000

13. The Pollution Prevention and Control (Scotland) Regulations 2000(**a**) are amended as follows.

14. In Part 1 (activities) of Schedule 1 (activities and installations and mobile plant)—

(a) in Section 5.1 (incineration and co-incineration of waste) of Chapter 5 (waste management), in the paragraph Interpretation of Section 5.1, in the definition of "excluded plant", for "Regulation (EC) No. 1774/2002 of the European Parliament and of the Council of 3rd October 2002 laying down health rules concerning animal by-products not intended for human consumption", substitute "Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation) and Commission Regulation (EU) No 142/2011 implementing Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive"; and

(**a**) S.S.I. 2000/323, relevantly amended by S.S.I. 2003/146, 170 and 235, 2005/101, 340 and 510, 2008/410 and 2010/236.

(b) in Section 6.8 (the treatment of animal and vegetable matter and food industries) of Chapter 6 (other activities), in the paragraph Interpretation of Section 6.8, in the definition of "exempt activity", for "regulation 26 of the Animal By-Products (Scotland) Regulations 2003", substitute "Article 18(1) of Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation)".

The Rendering (Fluid Treatment) (Scotland) Order 2001

15. The Rendering (Fluid Treatment) (Scotland) Order 2001(**a**) is amended as follows.

16. In article 2 (interpretation), in the definition of "animal by-product", for "Regulation (EC) No. 1774/2002 laying down health rules concerning animal by-products not intended for human consumption" substitute "Article 3(1) of Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation);".

The Older Cattle (Disposal) (Scotland) Regulations 2006

17. The Older Cattle (Disposal) (Scotland) Regulations 2006(**b**) are amended as follows.

18. In regulation 2 (interpretation), in the definition of "rendering plant", for "processing plant as defined in Regulation (EC) No. 1774/2002 of the European Parliament and of the Council laying down health rules concerning animal by products not intended for human consumption", substitute "within the meaning of paragraph 58 of Annex I to Regulation (EU) No 142/2011 implementing Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the boarder under that Directive".

The Foot-and-Mouth Disease (Scotland) Order 2006

19. The Foot-and-Mouth Disease (Scotland) Order 2006(**c**) is amended as follows.

20. In article 2 (interpretation)—

(a) in the definition of "dispose", for "1774/2002 of the European Parliament and of the Council laying down health rules concerning animal by-products not intended for human consumption and the Animal By-Products (Scotland) Regulations 2003", substitute "Regulation (EC) No 1069/2009 and Regulation (EU) No 142/2011"; and

(b) after the definition of "raw milk", insert—

""Regulation (EC) No 1069/2009" means Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation);

"Regulation (EU) No 142/2011" means Commission Regulation (EU) No 142/2011 implementing Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive;".

(**a**) S.S.I. 2001/189, relevantly amended by S.S.I. 2002/255, 2003/411 and 2010/177.
(**b**) S.S.I. 2006/4.
(**c**) S.S.I. 2006/44, relevantly amended by S.S.I. 2007/455.

21. In article 25(2)(b) (slaughter: control of faecal material), for "point 5 of Section II in Part A of Chapter III of Annex VIII to Regulation (EC) No. 1774/2002 of the European Parliament and of the Council laying down health rules concerning animal by-products not intended for human consumption, as amended", substitute "Articles 15 and 32 of Regulation (EC) No 1069/2009 and Articles 10 and 22 of Regulation (EU) No 142/2011".

22. In article 26(2)(c) (slaughter: isolation of things liable to spread disease) for "1774/2002" substitute "1069/2009".

23. In Schedule 4 (measures applicable in protection zones and surveillance zones)—

(a) in paragraph 20(4) (transport, treatment and spreading of dung and manure produced in a protection zone) for "point 5 of Section II in Part A of Chapter III of Annex VIII to Regulation (EC) No. 1774/2002, as amended" substitute "Articles 15 and 32 of Regulation (EC) No 1069/2009 and Articles 10 and 22 of Regulation (EU) No 142/2011"; and

(b) in paragraph 33(4) (transport, treatment and spreading of dung and manure produced in a surveillance zone), for "point 5 of Section II in Part A of Chapter III of Annex VIII to Regulation (EC) No. 1774/2002, as amended" substitute "Articles 15 and 32 of Regulation (EC) No 1069/2009 and Articles 10 and 22 of Regulation (EU) No 142/2011".

24. In Schedule 5 (treatment of products to ensure the destruction of disease virus)—

(a) in paragraph 2 (hides and skins), for "article 20 of and points A(2)(c) or (d) of Chapter VI of Annex VIII to Regulation (EC) No. 1774/2002, as amended" substitute "Article 35 of Regulation (EC) No 1069/2009 and point 28(c) and (d) of Regulation (EU) No 142/2011";

(b) in paragraph 3 (wool, ruminant hair and pig bristles), for "article 20 of and point A(1) of Chapter VIII to Regulation (EC) No. 1774/2002, as amended" substitute "Article 36 of Regulation (EC) No 1069/2009 and Article 24(4) of Regulation (EU) No 142/2011";

(c) in paragraph 5 (blood and blood products), for "point B(3)(e)(ii) of Chapter IV of Annex VIII to Regulation (EC) No. 1774/2002, as amended" substitute "point 2(b)(ii) of Chapter IV of Annex XIII to Regulation (EU) No 142/2011";

(d) in paragraph 6 (lard and rendered fats), for "point B(2)(d)(iv) of Chapter IV of Annex VII to Regulation (EC) No. 1774/2002, as amended" substitute "section 3(d) of Chapter 1 of Annex XIV to Regulation (EU) No 142/2011";

(e) in paragraph 7 (petfood and dog chews), for "points B(2), (3) or (4) of Chapter II of Annex VIII to Regulation (EC) No. 1774/2002, as amended" substitute "Chapter II of Annex XIII to Regulation (EU) No 142/2011"; and

(f) in paragraph 8 (game trophies of ungulates), for "points A(1), (3) or (4) of Chapter VII of Annex VIII to Regulation (EC) No. 1774/2002, as amended" substitute "Chapter VI of Annex XIII to Regulation (EU) No 142/2011".

The Foot-and-Mouth Disease (Slaughter and Vaccination) (Scotland) Regulations 2006

25. The Foot-and-Mouth Disease (Slaughter and Vaccination) (Scotland) Regulations 2006(**a**) are amended as follows.

26. In regulation 2 (interpretation)—

(a) in the definition of "dispose", for "1774/2002 of the European Parliament and of the Council laying down health rules concerning animal by-products not intended for human consumption and the Animal By-Products (Scotland) Regulations 2003" substitute "Regulation (EC) No 1069/2009 and Regulation (EU) No 142/2011"; and

(**a**) S.S.I. 2006/45.

(b) after the definition of "reactor premises" insert—

""Regulation (EC) No 1069/2009" means Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation);

"Regulation (EU) No 142/2011" means Commission Regulation (EU) No 142/2011 implementing Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive;".

27. In Part 3 (products other than fresh meat) of the Schedule (measures applicable in respect of a vaccination zone), in paragraph 18 (transport, treatment and distribution of dung and manure) for "point 5 of Section II in Part A of Chapter III of Annex VIII to Regulation (EC) No. 1774/2002, as amended" substitute "Articles 15 and 32 of Regulation (EC) No 1069/2009 and Articles 10 and 22 of Regulation (EU) No 142/2011".

The Products of Animal Origin (Third Country Imports) (Scotland) Regulations 2007

28. The Products of Animal Origin (Third Country Imports) (Scotland) Regulations 2007(**a**) are amended as follows.

29. In regulation 2 (interpretation)—

(a) omit the definition of "Regulation (EC) No. 1774/2002"; and

(b) after the definition of "Regulation (EC) No 136/2004" insert—

""Regulation (EC) No 1069/2009" means Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation);

"Regulation (EU) No 142/2011" means Commission Regulation (EU) No 142/2011 implementing Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive;".

30. In regulation 4 (exemption for authorised products and personal imports)—

(a) in paragraph (1), at the end, insert "other than products to which Article 17 of Regulation (EC) No 1069/2009 and Articles 11(2) and 12(2) of Regulation (EU) No 142/2011 apply";

(b) in paragraph (4)(b), for "Regulation (EC) No. 1774/2002 and the Animal By-Products (Scotland) Regulations 2003", substitute "Regulation (EC) No 1069/2009, Regulation (EU) No 142/2011 and the Animal By-Products (Enforcement) (Scotland) Regulations 2011"; and

(c) in paragraph (5)(b), for "1774/2002" substitute "1069/2009".

31. In regulation 5(1)(a) (enforcement authorities and exchange of information), for "1774/2002" substitute "1069/2009".

32. In regulation 6(1)(a) (appointment of official veterinary surgeons and official fish inspectors), for "1774/2002", substitute "1069/2009".

(**a**) S.S.I. 2007/1, amended by S.S.I. 2007/304, 2009/228 and 2010/225.

33. In regulation 21 (products which fail veterinary checks)—

(a) in paragraph (3)(b), for "1774/2002" substitute "1069/2009"; and

(b) in paragraph (5)(b), for "1774/2002" substitute "1069/2009".

34. In regulation 22 (treatment as animal by-products)—

(a) in paragraph (1) for "regulation 26 of the Animal By-Products (Scotland) Regulations 2003" substitute "Articles 17 and 18 of Regulation (EC) No 1069/2009 and Articles 11(2), 12(2) and 14 of Regulation (EU) No 142/2011"; and

(b) in paragraph (3), for "regulation 26 of the Animal By-Products (Scotland) Regulations 2003" substitute "Articles 17 and 18 of Regulation (EC) No 1069/2009".

35. In regulation 24(4) (consignments and products illegally brought in), for "1774/2002" substitute "1069/2009".

36. In regulation 43(1)(b) (disposal of returned transit products), for "1774/2002" substitute "1069/2009".

37. In Schedule 1 (import conditions), in Part VIII (miscellaneous products)—

(a) for paragraph 13 substitute—

"**13.** Regulation (EC) No 1069/2009 and Regulation (EU) No 142/2011"; and

(b) omit paragraphs 14, 15 and 16.

The Avian Influenza (H5N1 in Wild Birds) (Scotland) Order 2007

38. The Avian Influenza (H5N1 in Wild Birds) (Scotland) Order 2007(**a**) is amended as follows.

39. In article 2 (interpretation)—

(a) in the definition of "bird by product" for "Articles 4, 5 or 6 of Regulation (EC) No. 1774/2002" substitute "Article 8, 9 or 10 of Regulation (EC) No 1069/2009"; and

(b) for the definition of "Regulation (EC) No. 1774/2002" substitute—

""Regulation (EC) No 1069/2009" means Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation);

"Regulation (EU) No 142/2011" means Commission Regulation (EU) No 142/2011 implementing Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive;".

40. In article 13(1)(c) (designation of premises to which things may be moved), for "regulation 14 (approval of premises) of the Animal By-Products (Scotland) Regulations 2003" substitute "Articles 24 and 44 of Regulation (EC) No 1069/2009".

41. In Schedule 1 (measures applicable in respect of a wild bird control area)—

(a) in paragraph 13 (restriction on the movement of bird by products or products derived from bird by products from premises in a wild bird control area)—

(**a**) S.S.I. 2007/61.

(i) for sub-paragraph (2), substitute—

"(2) A veterinary inspector may not grant or direct the grant of a licence under sub paragraph (1) unless it is for a movement of—

(a) processed animal protein within the meaning of paragraph 5 of Annex I to Regulation (EU) No 142/2011 and which complies with the requirements of paragraph B of Section 1 of Chapter II of Annex X to that Regulation;

(b) blood products within the meaning of paragraph 4 of Annex I to Regulation (EU) No 142/2011 and which comply with the requirements of paragraph B of Section 2 of Chapter II of Annex X to that Regulation;

(c) rendered fats within the meaning of paragraph 8 of Annex I to Regulation (EU) No 142/2011 and which comply with the requirements of paragraph B of Section 3 of Section II of Annex X to that Regulation;

(d) gelatine within the meaning of paragraph 12 of Annex I to Regulation (EU) No 142/2011 and which complies with the requirements of paragraph B of Section 5 of Chapter II of Annex X to that Regulation;

(e) hydrolysed protein within the meaning of paragraph 14 of Annex I to Regulation (EU) No 142/2011 and which complies with the requirements of paragraph B of Section 5 of Chapter II of Annex X to that Regulation;

(f) dicalcium phosphate which complies with the requirements of paragraph B of Section 6 of Chapter II of Annex X to Regulation (EU) No 142/2011;

(g) tricalcium phosphate which complies with the requirements of paragraph B of Section 7 of Chapter II of Annex X to Regulation (EU) No 142/2011;

(h) collagen within the meaning of paragraph 11 of Annex I to Regulation (EU) No 142/2011 and which complies with the requirements of paragraph B of Section 8 of Chapter II of Annex X to that Regulation;

(i) egg products which comply with the requirements of paragraph B of Section 9 of Chapter II of Annex X to Regulation (EU) No 142/2011;

(j) processed petfood within the meaning of paragraph 20 of Annex I to Regulation (EU) No 142/2011 and which complies with the requirements of Chapter II of Annex XIII to that Regulation;

(k) dogchews within the meaning of paragraph 17 of Annex I to Regulation (EU) No 142/2011 and which comply with the requirements of Chapter II of Annex XIII to that Regulation;

(l) processed manure and processed manure products which comply with, the requirements of Section 2 of Chapter I of Annex XI to Regulation (EU) No 142/2011;

(m) game trophies of birds having undergone a complete taxidermy treatment ensuring their preservation at ambient temperatures within the meaning of Chapter VI of Annex XIII to Regulation (EU) No 142/2011;

(n) those by-products which are transported to designated incineration plants, processing plants, oleochemical plants, biogas and composting plants, petfood plants or technical plants for disposal, treatment, transformation or use which ensures inactivation of the avian influenza virus;

(o) those by-products which are transported to users or collection centres authorised and registered in accordance with Articles 24 and 44 of Regulation (EC) No 1069/2009 for the feeding of animals after they have been treated by a method approved by the competent authority which ensures inactivation of the avian influenza virus;

(p) untreated feathers or parts of untreated feathers produced from poultry within the meaning of paragraph 30 of Annex I to Regulation (EU) No 142/2011 and which

comply with the requirements of paragraph A of Chapter VII of Annex XIII to that Regulation; or

(q) poultry feathers, feathers from wild game bird or parts of such feathers which have been treated with a steam current or by another method which ensures inactivation of the avian influenza virus."; and

(ii) in sub-paragraph (5) for "Chapter X of Annex II to Regulation (EC) No. 1774/2002" substitute "Chapter III of Annex VIII to Regulation (EU) No 142/2011";

(b) in paragraph 14(a) (prohibition on movement of poultry manure) for "1774/2002" substitute "1069/2009 and Section 2 of Chapter I of Annex XI to Regulation (EU) No 142/2011"; and

(c) in paragraph 15(a) (prohibition on the spread of poultry manure) for "1774/2202" substitute "1069/2009 and Section 2 of Chapter I of Annex XI to Regulation (EU) No 142/2011".

The Avian Influenza (H5N1 in Poultry) (Scotland) Order 2007

42. The Avian Influenza (H5N1 in Poultry) (Scotland) Order 2007(**a**) is amended as follows.

43. In article 2 (interpretation)—

(a) in the definition of "bird by-product" for "Articles 4, 5 or 6 of Regulation (EC) No. 1774/2002" substitute "Article 8, 9 or 10 of Regulation (EC) No 1069/2009"; and

(b) for the definition of "Regulation (EC) No. 1774/2002", substitute—

""Regulation (EC) No 1069/2009" means Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation);

"Regulation (EU) No 142/2011" means Commission Regulation (EU) No 142/2011 implementing Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive;".

44. In article 3(6)(c) (licences, notices and designations under this Order), for "regulation 14 of the Animal By-Products (Scotland) Regulations 2003" substitute "Articles 24 and 44 of Regulation (EC) No 1069/2009".

45. In article 14 (restrictions on the movement of bird by-products)—

(a) for paragraph (2) substitute—

"(2) But a veterinary inspector or an inspector acting under the direction of a veterinary inspector may license the movement of any of the following bird by-products:—

(a) processed animal protein within the meaning of paragraph 5 of Annex I to Regulation (EU) No 142/2011 and which complies with the requirements of paragraph B of Section 1 of Chapter II of Annex X to that Regulation;

(b) blood products within the meaning of paragraph 4 of Annex I to Regulation (EU) No 142/2011 and which comply with the requirements of paragraph B of Section 2 of Chapter II of Annex X to that Regulation;

(c) rendered fats within the meaning of paragraph 8 of Annex I to Regulation (EU) No 142/2011 and which comply with the requirements of paragraph B of Section 3 of Section II of Annex X to that Regulation;

(**a**) S.S.I. 2007/62.

(d) gelatine within the meaning of paragraph 12 of Annex I to Regulation (EU) No 142/2011 and which complies with the requirements of paragraph B of Section 5 of Chapter II of Annex X to that Regulation;

(e) hydrolysed protein within the meaning of paragraph 14 of Annex I to Regulation (EU) No 142/2011 and which complies with the requirements of paragraph B of Section 5 of Chapter II of Annex X to that Regulation;

(f) dicalcium phosphate which complies with the requirements of paragraph B of Section 6 of Chapter II of Annex X to Regulation (EU) No 142/2011;

(g) tricalcium phosphate which complies with the requirements of paragraph B of Section 7 of Chapter II of Annex X to Regulation (EU) No 142/2011;

(h) collagen within the meaning of paragraph 11 of Annex I to Regulation (EU) No 142/2011 and which complies with the requirements of paragraph B of Section 8 of Chapter II of Annex X to that Regulation;

(i) egg products which comply with the requirements of paragraph B of Section 9 of Chapter II of Annex X to Regulation (EU) No 142/2011;

(j) processed petfood within the meaning of paragraph 20 of Annex I to Regulation (EU) No 142/2011 and which complies with the requirements of Chapter II of Annex XIII to that Regulation;

(k) dogchews within the meaning of paragraph 17 of Annex I to Regulation (EU) No 142/2011 and which comply with the requirements of Chapter II of Annex XIII to that Regulation;

(l) processed manure and processed manure products which comply with, the requirements of Section 2 of Chapter I of Annex XI to Regulation (EU) No 142/2011;

(m) by-products to a designated incineration plant, processing plant, oleochemical plant, biogas and composting plant, petfood plant or technical plant for disposal, treatment, transformation or use which ensures inactivation of the avian influenza virus;

(n) by-products to users or collection centres authorised and registered in accordance with Articles 24 and 44 of Regulation (EC) No 1069/2009 for the feeding of animals after they have been treated by a method approved by the competent authority which ensures inactivation of the avian influenza virus;

(o) game trophies of birds having undergone a complete taxidermy treatment ensuring their preservation at ambient temperatures;

(p) poultry feathers or parts of such feathers which have been treated with a steam current or by another method which ensures inactivation of the avian influenza virus; or

(q) untreated feathers or parts of untreated feathers produced from poultry or wild game birds from a restricted zone within the meaning of paragraph 30 of Annex I to Regulation (EU) No 142/2011 and which comply with the requirements of paragraph A of Chapter VII of Annex XIII to that Regulation.";

(b) in paragraph (3), for "Annex V to Regulation (EC) No. 1774/2002" substitute "Regulation (EC) No 1069/2009 and Annex IV to Regulation (EU) No 142/2011"; and

(c) in paragraph (4), for "Chapter X of Annex II to Regulation (EC) No. 1774/2002", substitute "Chapter III of Annex VIII to Regulation (EU) No 142/2011".

The Animals and Animal Products (Import and Export) (Scotland) Regulations 2007

46. The Animals and Animal Products (Import and Export) (Scotland) Regulations 2007(**a**) are amended as follows.

47. In Part 1 (legislation in relation to intra-Community trade) of Schedule 3 (intra-Community trade: legislation and additional requirements), for paragraph 7 substitute—

"**Animal by-products**

7.—(1) Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation).

(2) Commission Regulation (EU) No 142/2011 implementing Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive.".

The Zoonoses and Animal By-Products (Fees) (Scotland) Regulations 2009

48. The Zoonoses and Animal By-Products (Fees) (Scotland) Regulations 2009(**b**) are amended as follows.

49. In regulation 2 (interpretation), omit the definition of "the 2003 Regulations".

50. In the Schedule, wherever it appears, omit "regulation 21 of the 2003 Regulations or".

The Transmissible Spongiform Encephalopathies (Scotland) Regulations 2010

51. The Transmissible Spongiform Encephalopathies (Scotland) Regulations 2010(**c**) are amended as follows.

52. In regulation 2 (interpretation)—

(a) omit the definition of "Regulation (EC) No. 1774/2002"; and

(b) before the definition of "slaughterhouse", insert—

""Regulation (EC) No 1069/2009" means Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules concerning animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation);

"Regulation (EU) No 142/2011" means Commission Regulation (EU) No 142/2011 implementing Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive;".

53. In regulation 4(2) (exception for research), for "1774/2002" substitute "1069/2009".

54. In Schedule 1, omit paragraph (b).

(**a**) S.S.I. 2007/194, relevantly amended by S.S.I. 2010/343.
(**b**) S.S.I. 2009/230, amended by S.S.I. 2009/416 and 2010/88.
(**c**) S.S.I. 2010/177.

55. In paragraph 14(2)(b)(i) of Schedule 2 (TSE sampling of sheep, goats and deer), for "the Animal By-Products (Scotland) Regulations 2003" substitute "Articles 24 and 44 of Regulation (EC) No 1069/2009".

56. In Schedule 6 (feedingstuffs)—

(a) in paragraph 3 (exceptions)—

(i) for "Regulation (EC) No. 1774/2002 and the Animal By-Products (Scotland) Regulations 2003", substitute "Articles 15 and 32 of Regulation (EC) No 1069/2009 and Articles 10 and 22 of Regulation (EU) No 142/2011"; and

(ii) for "regulation 11(1) of the Animal By-Products (Scotland) Regulations 2003", substitute "Article 11(1) of Regulation (EC) No 1069/2009, Article 5(2) and Chapter II of Annex II to Regulation (EU) No 142/2011 and regulation 7 of the Animal By-Products (Enforcement) (Scotland) Regulations 2011"; and

(b) in paragraph 18(2), for "Regulation (EC) No. 1774/2002", substitute "Article 43 of Regulation (EC) No 1069/2009 and Article 25 of Regulation (EC) No 142/2011"; and

(c) omit paragraph 19 (fertilisers).

SCHEDULE 3

Regulation 29

Revocations

Column 1 – instrument	*Column 2 – citation*	*Column 3 – extent of revocation*
The Animal By-Products (Scotland) Regulations 2003	S.S.I. 2003/411	The whole Regulations
The Food Hygiene (Scotland) Regulations 2006	S.S.I. 2006/3	Schedule 7 (consequential amendments), paragraph 44
The Transmissible Spongiform Encephalopathies (Scotland) Regulations 2006	S.S.I. 2006/530	Schedule 8 (miscellaneous amendments), paragraph 1(**a**)
The Products of Animal Origin (Third Country Imports) (Scotland) Regulations 2007	S.S.I. 2007/1	Regulations 29-33 (the disposal and burial of unused on-board catering supplies and other material) and 71(f) (revocations)
The Animal By-Products (Scotland) Amendment Regulations 2009	S.S.I. 2009/7	The whole Regulations

(**a**) Regulation 23 of the Transmissible Spongiform Encephalopathies (Scotland) Regulations 2010 (S.S.I. 2010/177) revoked S.S.I. 2006/530; however, regulation 22 of those regulations saved the miscellaneous amendment in Schedule 8, paragraph 1 of the revoked instrument.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations enforce Regulation (EC) No 1069/2009 of the European Parliament and of the Council on laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 ("the EU Control Regulation").

These Regulations also enforce Commission Regulation (EU) No 142/2011 implementing Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive ("the EU Implementing Regulation") that provides technical supplementation of those requirements of the EU Control Regulation.

The EU Control Regulation places obligations on operators in relation to animal by-products, including obligations as to disposal and use, prohibitions on feeding, and placing on the market. In addition, there are requirements for operators, plants and establishments to be registered or approved. The obligations vary according to the categorisation of the material, the higher risk animal by-product is categorised as Category 1 material, next in risk is Category 2 and then Category 3 material. The EU Control Regulation allows the Member State to derogate from the obligations and also enable the competent authority to make authorisations in relation to specified obligations. The EU Implementing Regulation sets out a framework for the categorisation and use of animal by-products and supplements the EU Control Regulation by containing detailed provisions for the disposal and use of animal by-products.

These Regulations provide for the following:—

1. The Scottish Ministers are designated as the competent authority (regulation 3). Certain areas are designated as remote for the purposes of Article 19(1)(b) of the EU Control Regulation (regulation 9). Access by farmed animals to animal by-products is restricted in relation to Article 11 of the EU Control Regulation (regulations 4-7) (Part 2).

2. Procedure and appeals in respect of registration and approval (Part 3).

3. Enforcement of the requirements by providing for offences including breach of the requirements of the EU Control Regulation as identified in Schedule 1 which sets out the requirements of the EU Control Regulation as supplemented by the requirements of the EU Implementing Regulation and these Regulations, where applicable. The EU Control Regulation enables the competent authority to make authorisations in respect of such requirements. Such authorisations enable the competent authority to determine whether or not a product is a risk to human or animal health, for example. A full list of all the authorisations that are provided for under the requirements will be made available on the Scottish Government website at (www.scotland.gov.uk). In addition, that website will also make available the authorisations exercised by the Scottish Ministers (Part 4).

4. Enforcement powers by appointing enforcement authorities (Part 5).

5. Consequential provisions (Part 6) and revocations (Part 7). In particular, these Regulations revoke the Animal By-Products (Scotland) Regulations 2003 and amending instruments.

A Business and Regulatory Impact Assessment has been prepared and placed in the Scottish Parliament Information Centre. Copies may be obtained from the Scottish Government Rural and Environment Directorate, Animal Health and Welfare Division, Saughton House, Broomhouse Drive, Edinburgh EH11 3XD.

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